

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: August 18, 2011
POSITION: Oppose unless amended
SPONSOR: Bishop Area Chamber of Commerce and
Visitors Bureau, Bishop Lions Club, David
Stottlemire (mayor Pro Tem, City of Bishop),
Eastern Sierra Propane, Friends of the High
Lakes, Hi-Country Market and Hardware, Inyo
County Board of Supervisors, Nikolaus Big Pi

BILL NUMBER: AB 628
AUTHOR: C. Conway
RELATED BILLS: AB 2338 (Conway,
2010)

BILL SUMMARY: Off-Highway Vehicle Recreation: County of Inyo

Until January 1, 2017, this bill would authorize a pilot project to allow off-highway vehicles (OHVs) to operate on roadways designated for combined use of OHVs and regular vehicles in the unincorporated portions of Inyo County for up to 10 miles, but provide the county could not designate a roadway for combined use unless the Commissioner of the California Highway Patrol finds that the designation would not create a potential traffic safety hazard. The bill provides that Inyo County would indemnify the state from claims arising from safety-related losses or injuries arising from such designation.

FISCAL SUMMARY

The bill could lead to increased tort costs for the State, especially Caltrans for its role in approving inclusion of state highways and designing appropriate signage. Caltrans has expended over \$69 million annually for tort settlements over the last five years.

CHP staff indicates that the process to determine whether a proposed designation would create a traffic hazard proposed for the Inyo County pilot is similar to CHP's process for designating shorter segments pursuant to existing law throughout the state. Therefore, CHP estimates costs would be minor and absorbable.

COMMENTS

Finance is opposed unless amended to provide the state with immunity for liability for action or failure to take action for all roadways designated in the pilot project, including state highways if included. While the bill would provide that the county would indemnify the state for claims resulting from the designation of county roadway for combined use of OHVs and regular traffic, the indemnity provisions to not apply to claims arising from joint use of state highways as part of a pilot even though the bill specifically authorizes state highways to be included within a designated area. Without indemnification for claims arising out of all roadways included in the pilot for joint use, the bill potentially would expose the state to liability related to accidents due to CHP's role in determining whether the designation would create a potential traffic hazard, as well as Caltrans' role in approving state highway designations and assisting with signage. Accidents involving OHVs and passenger vehicles or trucks could result in severe injuries to the drivers and/or passengers of the OHVs which could result in litigation.

Analyst/Principal (0741) P. Abahazi	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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C. Conway

August 18, 2011

AB 628

ANALYSIS**A. Programmatic Analysis****Existing law:**

- Prohibits an off-highway vehicle (OHV) from operating on public streets except if the use is to cross the highway, or the government entity with authority over the highway designates no more than a three mile segment for combined OHV and regular traffic use, if one of the following circumstances applies:
 - ❖ The segment must provide a connecting link between OHV trails segments
 - ❖ The segment must link an OHV recreational use area and necessary service facilities
 - ❖ The segment must connect lodging facilities with an OHV recreational facility.
- Prohibits the designation of any roadway segment which, in the opinion of the CHP Commissioner, would create a potential traffic safety hazard.
- Provides the designation shall become effective upon the erection of signs approved by Caltrans.

This bill would, until January 1, 2017:

- Establish a pilot project in Inyo County to allow the county to designate road segments up to ten miles for combined use by OHVs and regular vehicles. The bill establishes criteria, including:
 - ❖ Prescribing the procedure for the County Board of Supervisors to select and designate, by majority vote of the supervisors, roads to be included in the pilot.
 - ❖ Requiring that OHV meet safety requirements, including licensing and helmet usage.
 - ❖ Prohibit OHVs from traveling faster than 35 miles per hour on designated highways.
- Provide that Inyo County may not designate a roadway for combined use unless the Commissioner of the CHP finds that combined use would not create a potential traffic safety hazard.
- Provide the pilot may include the use of state highways subject to approval by Caltrans.
- Require Inyo County, in cooperation with Caltrans, to establish uniform specification and symbols for signs to control OHVs.
- Require Inyo County, in cooperation with the Caltrans, the CHP, and the Department of Parks and Recreation, to prepare and submit an evaluation of the pilot to the Legislature by January 1, 2016.
- Provide that the County of Inyo agrees to defend and indemnify the state against all claims for safety-related losses or injuries resulting from the use of designated, combined used highways by off-highway motor vehicles.

Suggested Amendments
AB 628 (As amended August 18, 2011)

On page 4, after line 10, add:

(e) Notwithstanding any other provision of law, the state shall have no liability for any action or failure to take action under the authority of this section.

On page 5, line 17, after “designating” strike out “a county” and add “any”, and after “highway” add “, including a state highway,”